

AMENDED IN SENATE APRIL 27, 2004

SENATE BILL

No. 1484

Introduced by Senator Ackerman

(Coauthors: Senators Aanestad, Battin, Denham, Margett, and Oller)

(Coauthors: Assembly Members Bogh, Cogdill, Cox, Daucher, Dutra, Garcia, Maddox, Mountjoy, Pacheco, Samuelian, and Spitzer)

February 19, 2004

An act to amend Sections ~~290, 647, 647~~ and 647.7 of the Penal Code, relating to disorderly conduct.

LEGISLATIVE COUNSEL'S DIGEST

SB 1484, as amended, Ackerman. Disorderly conduct.

Existing law makes it a misdemeanor for anyone to look through a hole or opening or to view, by means of any instrumentality, into the interior of any of specified rooms or any other interior place where the occupant has a reasonable expectation of privacy, with the intent to invade that privacy.

This bill would add bedrooms to the enumerated rooms to which this prohibition is applicable.

Existing law also makes it a misdemeanor for a person to secretly videotape, film, photograph, or record by electronic means, another, identifiable person under or through his or her clothing, for the purpose of viewing the body of, or the undergarments worn by, that other person, without the consent or knowledge of that other person, with the intent to arouse, appeal to, or gratify the lust, passions, or sexual desires of that person and invade the privacy of that other person, under circumstances in which that other person has a reasonable expectation of privacy. Existing law provides that this and the above-described offense can be

punished by imprisonment in a county jail not exceeding six months, by a fine not exceeding \$1,000, or by both that fine and imprisonment, but authorizes a longer jail term of one year if the offense is committed after one or more prior convictions for these offenses or for the offense of peeking into an inhabited structure while loitering, wandering, or prowling upon private property.

This bill would make it a misdemeanor to use a concealed camcorder, motion picture camera, or photographic camera of any type, to secretly videotape, film, photograph, or record by electronic means, another, identifiable person who may be in a state of full or partial undress, for the purpose of viewing the body of, or the undergarments worn by, that other person, without the consent or knowledge of that other person, in the interior of a bedroom, bathroom, changing room, fitting room, dressing room, or tanning booth, or the interior of any other area in which that other person has a reasonable expectation of privacy, with the intent to invade the privacy of that other person. This new offense would be punished exactly as are the above-described offenses, except that the maximum fine would be \$5,000 if the offense is committed after one or more prior convictions for the same offense, or for an offense referenced above.

By creating a new crime, this bill would impose a state-mandated local program.

~~Existing law requires offenders who have been convicted of any of a specified group of sexual offenses to register with local law enforcement agencies and makes it a felony to willfully fail to register. Existing law also requires juvenile offenders as to whom a petition has been sustained for the commission of any of a different set of sexual offenses to register with local law enforcement agencies and makes it a felony to willfully fail to register. Existing law details these requirements, imposes other related and conforming requirements, and specifies penalties for various types of violations of these provisions.~~

~~This bill would add to the group of sexual offenses that, upon conviction, require registration pursuant to these provisions the offenses involving viewing with an instrumentality or videotaping described above, if the person has been previously convicted of one of those offenses.~~

~~By requiring local authorities to register more offenders, this bill would impose a state-mandated local program.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state.~~



~~Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.~~

~~This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.~~

~~With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.~~

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 290 of the Penal Code is amended to
2 read:
3 290. —(a) (1) (A) Every person described in paragraph (2),
4 for the rest of his or her life while residing in, or, if he or she has
5 no residence, while located within California, or while attending
6 school or working in California, as described in subparagraph (G),
7 shall be required to register with the chief of police of the city in
8 which he or she is residing, or if he or she has no residence, is
9 located, or the sheriff of the county if he or she is residing, or if he
10 or she has no residence, is located, in an unincorporated area or city
11 that has no police department, and, additionally, with the chief of
12 police of a campus of the University of California, the California
13 State University, or community college if he or she is residing, or
14 if he or she has no residence, is located upon the campus or in any
15 of its facilities, within five working days of coming into, or
16 changing his or her residence or location within, any city, county,
17 or city and county, or campus in which he or she temporarily
18 resides, or, if he or she has no residence, is located.

~~(B) If the person who is registering has more than one residence address or location at which he or she regularly resides or is located, he or she shall register in accordance with subparagraph (A) in each of the jurisdictions in which he or she regularly resides or is located. If all of the addresses or locations are within the same jurisdiction, the person shall provide the registering authority with all of the addresses or locations where he or she regularly resides or is located.~~

~~(C) If the person who is registering has no residence address, he or she shall update his or her registration no less than once every 60 days in addition to the requirement in subparagraph (A), on a form as may be required by the Department of Justice, with the entity or entities described in subparagraph (A) in whose jurisdiction he or she is located at the time he or she is updating the registration.~~

~~(D) Beginning on his or her first birthday following registration or change of address, the person shall be required to register annually, within five working days of his or her birthday, to update his or her registration with the entities described in subparagraph (A). At the annual update, the person shall provide current information as required on the Department of Justice annual update form, including the information described in subparagraphs (A) to (C), inclusive, of paragraph (2) of subdivision (c).~~

~~(E) In addition, every person who has ever been adjudicated a sexually violent predator, as defined in Section 6600 of the Welfare and Institutions Code, shall, after his or her release from custody, verify his or her address no less than once every 90 days and place of employment, including the name and address of the employer, in a manner established by the Department of Justice.~~

~~(F) No entity shall require a person to pay a fee to register or update his or her registration pursuant to this section. The registering agency shall submit registrations, including annual updates or changes of address, directly into the Department of Justice Violent Crime Information Network (VCIN).~~

~~(G) Persons required to register in their state of residence who are out-of-state residents employed, or carrying on a vocation in California on a full-time or part-time basis, with or without compensation, for more than 14 days, or for an aggregate period exceeding 30 days in a calendar year, shall register in accordance~~

with subparagraph (A). Persons described in paragraph (2) who are out of state residents enrolled in any educational institution in California, as defined in Section 22129 of the Education Code, on a full-time or part-time basis, shall register in accordance with subparagraph (A). The place where the out-of-state resident is located, for purposes of registration, shall be the place where the person is employed, carrying on a vocation, or attending school. The out-of-state resident subject to this subparagraph shall, in addition to the information required pursuant to subdivision (e), provide the registering authority with the name of his or her place of employment or the name of the school attended in California, and his or her address or location in his or her state of residence. The registration requirement for persons subject to this subparagraph shall become operative on November 25, 2000. The terms “employed or carries on a vocation” include employment whether or not financially compensated, volunteered, or performed for government or educational benefit.

(2) The following persons shall be required to register pursuant to paragraph (1):

(A) Any person who, since July 1, 1944, has been or is hereafter convicted in any court in this state or in any federal or military court of a violation of Section 207 or 209 committed with intent to violate Section 261, 286, 288, 288a, or 289, Section 220, except assault to commit mayhem, Section 243.4, paragraph (1), (2), (3), (4), or (6) of subdivision (a) of Section 261, or paragraph (1) of subdivision (a) of Section 262 involving the use of force or violence for which the person is sentenced to the state prison; Section 264.1, 266, 266c, subdivision (b) of Section 266h, subdivision (b) of Section 266i, 266j, 267, 269, 285, 286, 288, 288a, 288.5, or 289, Section 311.1, subdivision (b), (c), or (d) of Section 311.2, Section 311.3, 311.4, 311.10, 311.11, or 647.6, former Section 647a, subdivision (c) of Section 653f, subdivision 1 or 2 of Section 314, any offense involving lewd or lascivious conduct under Section 272, or any felony violation of Section 288.2; or subdivision (k) of Section 647 if previously convicted of a violation of that subdivision; or any statutory predecessor that includes all elements of one of the above-mentioned offenses; or any person who since that date has been or is hereafter convicted of the attempt to commit any of the above-mentioned offenses.

~~(B) Any person who, since July 1, 1944, has been or hereafter is released, discharged, or paroled from a penal institution where he or she was confined because of the commission or attempted commission of one of the offenses described in subparagraph (A).~~

~~(C) Any person who, since July 1, 1944, has been or hereafter is determined to be a mentally disordered sex offender under Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code or any person who has been found guilty in the guilt phase of a trial for an offense for which registration is required by this section but who has been found not guilty by reason of insanity in the sanity phase of the trial.~~

~~(D) Any person who, since July 1, 1944, has been, or is hereafter convicted in any other court, including any state, federal, or military court, of any offense that, if committed or attempted in this state, would have been punishable as one or more of the offenses described in subparagraph (A) or any person ordered by any other court, including any state, federal, or military court, to register as a sex offender for any offense, if the court found at the time of conviction or sentencing that the person committed the offense as a result of sexual compulsion or for purposes of sexual gratification.~~

~~(E) Any person ordered by any court to register pursuant to this section for any offense not included specifically in this section if the court finds at the time of conviction or sentencing that the person committed the offense as a result of sexual compulsion or for purposes of sexual gratification. The court shall state on the record the reasons for its findings and the reasons for requiring registration.~~

~~(F) (i) Notwithstanding any other subdivision, a person who was convicted before January 1, 1976, under subdivision (a) of Section 286, or Section 288a, shall not be required to register pursuant to this section for that conviction if the conviction was for conduct between consenting adults that was decriminalized by Chapter 71 of the Statutes of 1975 or Chapter 1139 of the Statutes of 1976. The Department of Justice shall remove that person from the Sex Offender Registry, and the person is discharged from his or her duty to register pursuant to the following procedure:~~

~~(I) The person submits to the Department of Justice official documentary evidence, including court records or police reports,~~

1 that demonstrate that the person's conviction pursuant to either of
2 those sections was for conduct between consenting adults that was
3 decriminalized; or

4 (II) The person submits to the department a declaration stating
5 that the person's conviction pursuant to either of those sections was
6 for consensual conduct between adults that has been
7 decriminalized. The declaration shall be confidential and not a
8 public record, and shall include the person's name, address,
9 telephone number, date of birth, and a summary of the
10 circumstances leading to the conviction, including the date of the
11 conviction and county of the occurrence.

12 (III) The department shall determine whether the person's
13 conviction was for conduct between consensual adults that has
14 been decriminalized. If the conviction was for consensual conduct
15 between adults that has been decriminalized, and the person has no
16 other offenses for which he or she is required to register pursuant
17 to this section, the department shall, within 60 days of receipt of
18 those documents, notify the person that he or she is relieved of the
19 duty to register, and shall notify the local law enforcement agency
20 with which the person is registered that he or she has been relieved
21 of the duty to register. The local law enforcement agency shall
22 remove the person's registration from its files within 30 days of
23 receipt of notification. If the documentary or other evidence
24 submitted is insufficient to establish the person's claim, the
25 department shall, within 60 days of receipt of those documents,
26 notify the person that his or her claim cannot be established, and
27 that the person shall continue to register pursuant to this section.
28 The department shall provide, upon the person's request, any
29 information relied upon by the department in making its
30 determination that the person shall continue to register pursuant to
31 this section. Any person whose claim has been denied by the
32 department pursuant to this clause may petition the court to appeal
33 the department's denial of the person's claim.

34 (ii) On or before July 1, 1998, the department shall make a
35 report to the Legislature concerning the status of persons who may
36 come under the provisions of this subparagraph, including the
37 number of persons who were convicted before January 1, 1976,
38 under subdivision (a) of Section 286 or Section 288a and are
39 required to register under this section, the average age of these
40 persons, the number of these persons who have any subsequent

1 convictions for a registerable sex offense, and the number of these
2 persons who have sought successfully or unsuccessfully to be
3 relieved of their duty to register under this section.

4 (b) (1) Any person who is released, discharged, or paroled
5 from a jail, state or federal prison, school, road camp, or other
6 institution where he or she was confined because of the
7 commission or attempted commission of one of the offenses
8 specified in subdivision (a) or is released from a state hospital to
9 which he or she was committed as a mentally disordered sex
10 offender under Article 1 (commencing with Section 6300) of
11 Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions
12 Code, shall, prior to discharge, parole, or release, be informed of
13 his or her duty to register under this section by the official in charge
14 of the place of confinement or hospital, and the official shall
15 require the person to read and sign any form that may be required
16 by the Department of Justice, stating that the duty of the person to
17 register under this section has been explained to the person. The
18 official in charge of the place of confinement or hospital shall
19 obtain the address where the person expects to reside upon his or
20 her discharge, parole, or release and shall report the address to the
21 Department of Justice. The official shall at the same time forward
22 a current photograph of the person to the Department of Justice.

23 (2) The official in charge of the place of confinement or
24 hospital shall give one copy of the form to the person and shall send
25 one copy to the Department of Justice and one copy to the
26 appropriate law enforcement agency or agencies having
27 jurisdiction over the place the person expects to reside upon
28 discharge, parole, or release. If the conviction that makes the
29 person subject to this section is a felony conviction, the official in
30 charge shall, not later than 45 days prior to the scheduled release
31 of the person, send one copy to the appropriate law enforcement
32 agency or agencies having local jurisdiction where the person
33 expects to reside upon discharge, parole, or release; one copy to the
34 prosecuting agency that prosecuted the person; and one copy to the
35 Department of Justice. The official in charge of the place of
36 confinement or hospital shall retain one copy.

37 (c) (1) Any person who is convicted in this state of the
38 commission or attempted commission of any of the offenses
39 specified in subdivision (a) and who is released on probation, shall,
40 prior to release or discharge, be informed of the duty to register

1 under this section by the probation department, and a probation
2 officer shall require the person to read and sign any form that may
3 be required by the Department of Justice, stating that the duty of
4 the person to register under this section has been explained to him
5 or her. The probation officer shall obtain the address where the
6 person expects to reside upon release or discharge and shall report
7 within three days the address to the Department of Justice. The
8 probation officer shall give one copy of the form to the person,
9 send one copy to the Department of Justice, and forward one copy
10 to the appropriate law enforcement agency or agencies having
11 local jurisdiction where the person expects to reside upon his or her
12 discharge, parole, or release.

13 (2) Any person who is convicted in this state of the commission
14 or attempted commission of any of the offenses specified in
15 subdivision (a) and who is granted conditional release without
16 supervised probation, or discharged upon payment of a fine, shall,
17 prior to release or discharge, be informed of the duty to register
18 under this section in open court by the court in which the person
19 has been convicted, and the court shall require the person to read
20 and sign any form that may be required by the Department of
21 Justice, stating that the duty of the person to register under this
22 section has been explained to him or her. If the court finds that it
23 is in the interest of the efficiency of the court, the court may assign
24 the bailiff to require the person to read and sign forms under this
25 section. The court shall obtain the address where the person
26 expects to reside upon release or discharge and shall report within
27 three days the address to the Department of Justice. The court shall
28 give one copy of the form to the person, send one copy to the
29 Department of Justice, and forward one copy to the appropriate
30 law enforcement agency or agencies having local jurisdiction
31 where the person expects to reside upon his or her discharge,
32 parole, or release.

33 (d) (1) Any person who, on or after January 1, 1986, is
34 discharged or paroled from the Department of the Youth Authority
35 to the custody of which he or she was committed after having been
36 adjudicated a ward of the juvenile court pursuant to Section 602
37 of the Welfare and Institutions Code because of the commission or
38 attempted commission of any offense described in paragraph (3)
39 shall be subject to registration under the procedures of this section.

~~(2) Any person who is discharged or paroled from a facility in another state that is equivalent to the Department of the Youth Authority, to the custody of which he or she was committed because of an offense which, if committed or attempted in this state, would have been punishable as one or more of the offenses described in paragraph (3), shall be subject to registration under the procedures of this section.~~

~~(3) Any person described in this subdivision who committed an offense in violation of any of the following provisions shall be required to register pursuant to this section:~~

~~(A) Assault with intent to commit rape, sodomy, oral copulation, or any violation of Section 264.1, 288, or 289 under Section 220.~~

~~(B) Any offense defined in paragraph (1), (2), (3), (4), or (6) of subdivision (a) of Section 261, Section 264.1, 266c, or 267, paragraph (1) of subdivision (b) of, or subdivision (c) or (d) of, Section 286, Section 288 or 288.5, paragraph (1) of subdivision (b) of, or subdivision (c) or (d) of, Section 288a, subdivision (a) of Section 289, or Section 647.6.~~

~~(C) A violation of Section 207 or 209 committed with the intent to violate Section 261, 286, 288, 288a, or 289.~~

~~(4) Prior to discharge or parole from the Department of the Youth Authority, any person who is subject to registration under this subdivision shall be informed of the duty to register under the procedures set forth in this section. Department of the Youth Authority officials shall transmit the required forms and information to the Department of Justice.~~

~~(5) All records specifically relating to the registration in the custody of the Department of Justice, law enforcement agencies, and other agencies or public officials shall be destroyed when the person who is required to register has his or her records sealed under the procedures set forth in Section 781 of the Welfare and Institutions Code. This subdivision shall not be construed as requiring the destruction of other criminal offender or juvenile records relating to the case that are maintained by the Department of Justice, law enforcement agencies, the juvenile court, or other agencies and public officials unless ordered by a court under Section 781 of the Welfare and Institutions Code.~~

~~(c) (1) On or after January 1, 1998, upon incarceration, placement, or commitment, or prior to release on probation, any~~

~~person who is required to register under this section shall preregister. The preregistering official shall be the admitting officer at the place of incarceration, placement, or commitment, or the probation officer if the person is to be released on probation. The preregistration shall consist of all of the following:~~

~~(A) A preregistration statement in writing, signed by the person, giving information that shall be required by the Department of Justice.~~

~~(B) The fingerprints and a current photograph of the person.~~

~~(C) Any person who is preregistered pursuant to this subdivision is required to be preregistered only once.~~

~~(2) A person described in paragraph (2) of subdivision (a) shall register, or reregister if the person has previously registered, upon release from incarceration, placement, or commitment, pursuant to paragraph (1) of subdivision (a). The registration shall consist of all of the following:~~

~~(A) A statement in writing signed by the person, giving information as shall be required by the Department of Justice and giving the name and address of the person's employer, and the address of the person's place of employment if that is different from the employer's main address.~~

~~(B) The fingerprints and a current photograph of the person taken by the registering official.~~

~~(C) The license plate number of any vehicle owned by, regularly driven by, or registered in the name of the person.~~

~~(D) Notice to the person that, in addition to the requirements of paragraph (4), he or she may have a duty to register in any other state where he or she may relocate.~~

~~(E) Copies of adequate proof of residence, which shall be limited to a California driver's license, California identification card, recent rent or utility receipt, printed personalized checks or other recent banking documents showing that person's name and address, or any other information that the registering official believes is reliable. If the person has no residence and no reasonable expectation of obtaining a residence in the foreseeable future, the person shall so advise the registering official and shall sign a statement provided by the registering official stating that fact. Upon presentation of proof of residence to the registering official or a signed statement that the person has no residence, the person shall be allowed to register. If the person claims that he or~~

1 she has a residence but does not have any proof of residence, he or
2 she shall be allowed to register but shall furnish proof of residence
3 within 30 days of the day he or she is allowed to register.

4 (3) Within three days thereafter, the preregistering official or
5 the registering law enforcement agency or agencies shall forward
6 the statement, fingerprints, photograph, and vehicle license plate
7 number, if any, to the Department of Justice.

8 (f) (1) If any person who is required to register pursuant to this
9 section changes his or her residence address or location, whether
10 within the jurisdiction in which he or she is currently registered or
11 to a new jurisdiction inside or outside the state, the person shall
12 inform, in writing within five working days, the law enforcement
13 agency or agencies with which he or she last registered of the new
14 address or location. The law enforcement agency or agencies shall,
15 within three working days after receipt of this information,
16 forward a copy of the change of address or location information
17 to the Department of Justice. The Department of Justice shall
18 forward appropriate registration data to the law enforcement
19 agency or agencies having local jurisdiction of the new place of
20 residence or location.

21 (2) If the person's new address is in a Department of the Youth
22 Authority facility or a state prison or state mental institution, an
23 official of the place of incarceration, placement, or commitment
24 shall, within 90 days of receipt of the person, forward the
25 registrant's change of address information to the Department of
26 Justice. The agency need not provide a physical address for the
27 registrant but shall indicate that he or she is serving a period of
28 incarceration or commitment in a facility under the agency's
29 jurisdiction. This paragraph shall apply to persons received in a
30 Department of the Youth Authority facility or a state prison or state
31 mental institution on or after January 1, 1999. The Department of
32 Justice shall forward the change of address information to the
33 agency with which the person last registered.

34 (3) If any person who is required to register pursuant to this
35 section changes his or her name, the person shall inform, in person,
36 the law enforcement agency or agencies with which he or she is
37 currently registered within five working days. The law
38 enforcement agency or agencies shall forward a copy of this
39 information to the Department of Justice within three working
40 days of its receipt.

~~(g) (1) Any person who is required to register under this section based on a misdemeanor conviction or juvenile adjudication who willfully violates any requirement of this section is guilty of a misdemeanor punishable by imprisonment in a county jail not exceeding one year.~~

~~(2) Except as provided in paragraphs (5) and (7), any person who is required to register under this section based on a felony conviction or juvenile adjudication who willfully violates any requirement of this section or who has a prior conviction or juvenile adjudication for the offense of failing to register under this section and who subsequently and willfully violates any requirement of this section is guilty of a felony and shall be punished by imprisonment in the state prison for 16 months, or two or three years.~~

~~If probation is granted or if the imposition or execution of sentence is suspended, it shall be a condition of the probation or suspension that the person serve at least 90 days in a county jail. The penalty described in this paragraph shall apply whether or not the person has been released on parole or has been discharged from parole.~~

~~(3) Any person determined to be a mentally disordered sex offender or who has been found guilty in the guilt phase of trial for an offense for which registration is required under this section, but who has been found not guilty by reason of insanity in the sanity phase of the trial, or who has had a petition sustained in a juvenile adjudication for an offense for which registration is required under this section pursuant to subdivision (d), but who has been found not guilty by reason of insanity, who willfully violates any requirement of this section is guilty of a misdemeanor and shall be punished by imprisonment in a county jail not exceeding one year. For any second or subsequent willful violation of any requirement of this section, the person is guilty of a felony and shall be punished by imprisonment in the state prison for 16 months, or two or three years.~~

~~(4) If, after discharge from parole, the person is convicted of a felony or suffers a juvenile adjudication as specified in this subdivision, he or she shall be required to complete parole of at least one year, in addition to any other punishment imposed under this subdivision. A person convicted of a felony as specified in this subdivision may be granted probation only in the unusual case~~

1 ~~where the interests of justice would best be served. When~~
2 ~~probation is granted under this paragraph, the court shall specify~~
3 ~~on the record and shall enter into the minutes the circumstances~~
4 ~~indicating that the interests of justice would best be served by the~~
5 ~~disposition.~~

6 ~~(5) Any person who has ever been adjudicated a sexually~~
7 ~~violent predator, as defined in Section 6600 of the Welfare and~~
8 ~~Institutions Code, and who fails to verify his or her registration~~
9 ~~every 90 days as required pursuant to subparagraph (E) of~~
10 ~~paragraph (1) of subdivision (a), shall be punished by~~
11 ~~imprisonment in the state prison, or in a county jail not exceeding~~
12 ~~one year.~~

13 ~~(6) Except as otherwise provided in paragraph (5), and in~~
14 ~~addition to any other penalty imposed under this subdivision, any~~
15 ~~person who is required pursuant to subparagraph (C) of paragraph~~
16 ~~(1) of subdivision (a) to update his or her registration every 60 days~~
17 ~~and willfully fails to update his or her registration is guilty of a~~
18 ~~misdemeanor and shall be punished by imprisonment in a county~~
19 ~~jail not exceeding six months. Any subsequent violation of this~~
20 ~~requirement that persons described in subparagraph (C) of~~
21 ~~paragraph (1) of subdivision (a) shall update their registration~~
22 ~~every 60 days is also a misdemeanor and shall be punished by~~
23 ~~imprisonment in a county jail not exceeding six months.~~

24 ~~(7) Any person who fails to provide proof of residence as~~
25 ~~required by subparagraph (E) of paragraph (2) of subdivision (e),~~
26 ~~regardless of the offense upon which the duty to register is based,~~
27 ~~is guilty of a misdemeanor punishable by imprisonment in a~~
28 ~~county jail not exceeding six months.~~

29 ~~(8) Any person who is required to register under this section~~
30 ~~who willfully violates any requirement of this section is guilty of~~
31 ~~a continuing offense.~~

32 ~~(h) Whenever any person is released on parole or probation and~~
33 ~~is required to register under this section but fails to do so within~~
34 ~~the time prescribed, the parole authority, the Youthful Offender~~
35 ~~Parole Board, or the court, as the case may be, shall order the~~
36 ~~parole or probation of the person revoked. For purposes of this~~
37 ~~subdivision, “parole authority” has the same meaning as~~
38 ~~described in Section 3000.~~

39 ~~(i) Except as provided in Sections 290.4 and 290.45, the~~
40 ~~statements, photographs, and fingerprints required by this section~~

shall not be open to inspection by the public or by any person other than a regularly employed peace officer or other law enforcement officer.

(j) In any case in which a person who would be required to register pursuant to this section for a felony conviction is to be temporarily sent outside the institution where he or she is confined on any assignment within a city or county including firefighting, disaster control, or of whatever nature the assignment may be, the local law enforcement agency having jurisdiction over the place or places where the assignment shall occur shall be notified within a reasonable time prior to removal from the institution. This subdivision shall not apply to any person who is temporarily released under guard from the institution where he or she is confined.

(k) As used in this section, “mentally disordered sex offender” includes any person who has been determined to be a sexual psychopath or a mentally disordered sex offender under any provision which, on or before January 1, 1976, was contained in Division 6 (commencing with Section 6000) of the Welfare and Institutions Code.

(l) (1) Every person who, prior to January 1, 1997, is required to register under this section, shall be notified whenever he or she next reregisters of the reduction of the registration period from 14 to five working days. This notice shall be provided in writing by the registering agency or agencies. Failure to receive this notification shall be a defense against the penalties prescribed by subdivision (g) if the person did register within 14 days.

(2) Every person who, as a sexually violent predator, as defined in Section 6600 of the Welfare and Institutions Code, is required to verify his or her registration every 90 days, shall be notified wherever he or she next registers of his or her increased registration obligations. This notice shall be provided in writing by the registering agency or agencies. Failure to receive this notice shall be a defense against the penalties prescribed by paragraph (5) of subdivision (g).

(m) The registration provisions of this section are applicable to every person described in this section, without regard to when his or her crimes were committed or his or her duty to register pursuant to this section arose, and to every offense described in this section, regardless of when it was committed.

1 ~~SEC. 2.~~—Section 647 of the Penal Code is amended to read:

2 647. Every person who commits any of the following acts is
3 guilty of disorderly conduct, a misdemeanor:

4 (a) Who solicits anyone to engage in or who engages in lewd
5 or dissolute conduct in any public place or in any place open to the
6 public or exposed to public view.

7 (b) Who solicits or who agrees to engage in or who engages in
8 any act of prostitution. A person agrees to engage in an act of
9 prostitution when, with specific intent to so engage, he or she
10 manifests an acceptance of an offer or solicitation to so engage,
11 regardless of whether the offer or solicitation was made by a
12 person who also possessed the specific intent to engage in
13 prostitution. No agreement to engage in an act of prostitution shall
14 constitute a violation of this subdivision unless some act, in
15 addition to the agreement, is done within this state in furtherance
16 of the commission of an act of prostitution by the person agreeing
17 to engage in that act. As used in this subdivision, “prostitution”
18 includes any lewd act between persons for money or other
19 consideration.

20 (c) Who accosts other persons in any public place or in any
21 place open to the public for the purpose of begging or soliciting
22 alms.

23 (d) Who loiters in or about any toilet open to the public for the
24 purpose of engaging in or soliciting any lewd or lascivious or any
25 unlawful act.

26 (e) Who loiters or wanders upon the streets or from place to
27 place without apparent reason or business and who refuses to
28 identify himself or herself and to account for his or her presence
29 when requested by any peace officer so to do, if the surrounding
30 circumstances would indicate to a reasonable person that the
31 public safety demands this identification.

32 (f) Who is found in any public place under the influence of
33 intoxicating liquor, any drug, controlled substance, toluene, or any
34 combination of any intoxicating liquor, drug, controlled
35 substance, or toluene, in ~~such~~ a condition that he or she is unable
36 to exercise care for his or her own safety or the safety of others, or
37 by reason of his or her being under the influence of intoxicating
38 liquor, any drug, controlled substance, toluene, or any
39 combination of any intoxicating liquor, drug, or toluene, interferes

1 with or obstructs or prevents the free use of any street, sidewalk,
2 or other public way.

3 (g) When a person has violated subdivision (f) ~~of this section~~,
4 a peace officer, if he or she is reasonably able to do so, shall place
5 the person, or cause him or her to be placed, in civil protective
6 custody. The person shall be taken to a facility, designated
7 pursuant to Section 5170 of the Welfare and Institutions Code, for
8 the 72-hour treatment and evaluation of inebriates. A peace officer
9 may place a person in civil protective custody with that kind and
10 degree of force which would be lawful were he or she effecting an
11 arrest for a misdemeanor without a warrant. No person who has
12 been placed in civil protective custody shall thereafter be subject
13 to any criminal prosecution or juvenile court proceeding based on
14 the facts giving rise to this placement. This subdivision shall not
15 apply to the following persons:

16 (1) Any person who is under the influence of any drug, or under
17 the combined influence of intoxicating liquor and any drug.

18 (2) Any person who a peace officer has probable cause to
19 believe has committed any felony, or who has committed any
20 misdemeanor in addition to subdivision (f) ~~of this section~~.

21 (3) Any person who a peace officer in good faith believes will
22 attempt escape or will be unreasonably difficult for medical
23 personnel to control.

24 (h) Who loiters, prowls, or wanders upon the private property
25 of another, at any time, without visible or lawful business with the
26 owner or occupant. As used in this subdivision, “loiter” means to
27 delay or linger without a lawful purpose for being on the property
28 and for the purpose of committing a crime as opportunity may be
29 discovered.

30 (i) Who, while loitering, prowling, or wandering upon the
31 private property of another, at any time, peeks in the door or
32 window of any inhabited building or structure, without visible or
33 lawful business with the owner or occupant.

34 (j) Who lodges in any building, structure, vehicle, or place,
35 whether public or private, without the permission of the owner or
36 person entitled to the possession or in control of it.

37 (k) (1) Any person who looks through a hole or opening, into,
38 or otherwise views, by means of any instrumentality, including,
39 but not limited to, a periscope, telescope, binoculars, camera,
40 motion picture camera, or camcorder, the interior of a bedroom,

1 bathroom, changing room, fitting room, dressing room, or tanning
2 booth, or the interior of any other area in which the occupant has
3 a reasonable expectation of privacy, with the intent to invade the
4 privacy of a person or persons inside. This subdivision shall not
5 apply to those areas of a private business used to count currency
6 or other negotiable instruments.

7 (2) Any person who uses a concealed camcorder, motion
8 picture camera, or photographic camera of any type, to secretly
9 videotape, film, photograph, or record by electronic means,
10 another, identifiable person under or through the clothing being
11 worn by that other person, for the purpose of viewing the body of,
12 or the undergarments worn by, that other person, without the
13 consent or knowledge of that other person, with the intent to
14 arouse, appeal to, or gratify the lust, passions, or sexual desires of
15 that person and invade the privacy of that other person, under
16 circumstances in which the other person has a reasonable
17 expectation of privacy.

18 (3) (A) Any person who uses a concealed camcorder, motion
19 picture camera, or photographic camera of any type, to secretly
20 videotape, film, photograph, or record by electronic means,
21 another, identifiable person who may be in a state of full or partial
22 undress, for the purpose of viewing the body of, or the
23 undergarments worn by, that other person, without the consent or
24 knowledge of that other person, in the interior of a bedroom,
25 bathroom, changing room, fitting room, dressing room, or tanning
26 booth, or the interior of any other area in which that other person
27 has a reasonable expectation of privacy, with the intent to invade
28 the privacy of that other person.

29 (B) Neither of the following is a defense to the crime specified
30 in this paragraph:

31 (i) The defendant was a cohabitant, landlord, tenant, cotenant,
32 employer, employee, or business partner or associate of the victim,
33 or an agent of any of these.

34 (ii) The victim was not in a state of full or partial undress.

35 (I) In any accusatory pleading charging a violation of
36 subdivision (b), if the defendant has been once previously
37 convicted of a violation of that subdivision, the previous
38 conviction shall be charged in the accusatory pleading. If the
39 previous conviction is found to be true by the jury, upon a jury trial,
40 or by the court, upon a court trial, or is admitted by the defendant,

the defendant shall be imprisoned in a county jail for a period of not less than 45 days and shall not be eligible for release upon completion of sentence, on probation, on parole, on work furlough or work release, or on any other basis until he or she has served a period of not less than 45 days in a county jail. In all cases in which probation is granted, the court shall require as a condition thereof that the person be confined in a county jail for at least 45 days. In no event does the court have the power to absolve a person who violates this subdivision from the obligation of spending at least 45 days in confinement in a county jail.

In any accusatory pleading charging a violation of subdivision (b), if the defendant has been previously convicted two or more times of a violation of that subdivision, each ~~such previous conviction~~ *of these previous convictions* shall be charged in the accusatory pleading. If two or more of these previous convictions are found to be true by the jury, upon a jury trial, or by the court, upon a court trial, or are admitted by the defendant, the defendant shall be imprisoned in a county jail for a period of not less than 90 days and shall not be eligible for release upon completion of sentence, on probation, on parole, on work furlough or work release, or on any other basis until he or she has served a period of not less than 90 days in a county jail. In all cases in which probation is granted, the court shall require as a condition thereof that the person be confined in a county jail for at least 90 days. In no event does the court have the power to absolve a person who violates this subdivision from the obligation of spending at least 90 days in confinement in a county jail.

In addition to any punishment prescribed by this section, a court may suspend, for not more than 30 days, the privilege of the person to operate a motor vehicle pursuant to Section 13201.5 of the Vehicle Code for any violation of subdivision (b) that was committed within 1,000 feet of a private residence and with the use of a vehicle. In lieu of the suspension, the court may order a person's privilege to operate a motor vehicle restricted, for not more than six months, to necessary travel to and from the person's place of employment or education. If driving a motor vehicle is necessary to perform the duties of the person's employment, the court may also allow the person to drive in that person's scope of employment.

~~SEC. 3.~~

1 *SEC. 2.* Section 647.7 of the Penal Code is amended to read:

2 647.7. (a) In any case in which a person is convicted of
3 violating subdivision (i) or (k) of Section 647, the court may
4 require counseling as a condition of probation. Any defendant so
5 ordered to be placed in a counseling program shall be responsible
6 for paying the expense of his or her participation in the counseling
7 program as determined by the court. The court shall take into
8 consideration the ability of the defendant to pay, and no defendant
9 shall be denied probation because of his or her inability to pay.

10 (b) Every person who, having been convicted of violating
11 subdivision (i) or (k) of Section 647, commits a second or
12 subsequent violation of subdivision (i) or (k) of Section 647, shall
13 be punished by imprisonment in a county jail not exceeding one
14 year, by a fine not exceeding one thousand dollars (\$1,000), or by
15 both that fine and imprisonment, except as provided in subdivision
16 (c).

17 (c) Every person who, having been previously convicted of
18 violating subdivision (i) or (k) of Section 647, commits a violation
19 of paragraph (3) of subdivision (k) of Section 647 regardless of
20 whether it is a first, second, or subsequent violation of that
21 paragraph, shall be punished by imprisonment in a county jail not
22 exceeding one year, by a fine not exceeding five thousand dollars
23 (\$5,000), or by both that fine and imprisonment.

24 ~~SEC. 4. No reimbursement is required by this act pursuant to~~
25 ~~Section 6 of Article XIII B of the California Constitution for~~
26 ~~certain costs that may be incurred by a local agency or school~~
27 ~~district because in that regard this act creates a new crime or~~
28 ~~infraction, eliminates a crime or infraction, or changes the penalty~~
29 ~~for a crime or infraction, within the meaning of Section 17556 of~~
30 ~~the Government Code, or changes the definition of a crime within~~
31 ~~the meaning of Section 6 of Article XIII B of the California~~
32 ~~Constitution.~~

33 ~~However, notwithstanding Section 17610 of the Government~~
34 ~~Code, if the Commission on State Mandates determines that this~~
35 ~~act contains other costs mandated by the state, reimbursement to~~
36 ~~local agencies and school districts for those costs shall be made~~
37 ~~pursuant to Part 7 (commencing with Section 17500) of Division~~
38 ~~4 of Title 2 of the Government Code. If the statewide cost of the~~
39 ~~claim for reimbursement does not exceed one million dollars~~

1 ~~(\$1,000,000), reimbursement shall be made from the State~~
2 ~~Mandates Claims Fund.~~

3 *SEC. 3. No reimbursement is required by this act pursuant to*
4 *Section 6 of Article XIII B of the California Constitution because*
5 *the only costs that may be incurred by a local agency or school*
6 *district will be incurred because this act creates a new crime or*
7 *infraction, eliminates a crime or infraction, or changes the penalty*
8 *for a crime or infraction, within the meaning of Section 17556 of*
9 *the Government Code, or changes the definition of a crime within*
10 *the meaning of Section 6 of Article XIII B of the California*
11 *Constitution.*

